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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,754	12/21/2001	Lucio Pieroni	AA510	3766

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EXAMINER

SPISICH, MARK

ART UNIT PAPER NUMBER

1744

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/027,754

Applicant(s)

PIERONI ET AL.

Examiner

Mark Spisich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 9,12 and 18-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9,12 and 18-32 is/are rejected.
- 7) ☒ Claim(s) 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 33 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 33 is dependent on **CANCELED** claim 1. There are four(4) pending independent claims and numerous dependent claims. The examiner is not in a position to guess as to which claim it is meant to depend. It would further appear that, as claims 9 and 18 positively recite that the device has a wand shape, claim 33 could only properly depend from claims 12 or 19 in that the embodiment which includes the water connection (#56 in figure 3) is in the embodiment which is not wand shaped (eg, figures 1 and 2). This claim has not been further treated on the merits (i.e. with regard to the prior art).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Enoch (USP 5,881,418) in view of Palaikas (USP 5,507,968) and further in view of EITHER Hart (USP 3,316,428) OR JP 8-126786. The patent to Enoch discloses a hand-held scrubbing device comprising a casing (10) having a wand shape which includes two

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halves with a gasket (38) there between (i.e. it is waterproof; also see column 3, lines 32-35) and an interior area including a motor (12), battery (14), dispensing chamber (28), orifice (30), dispensing activator (32) at least indirectly coupled to a dispensing mechanism (69,70) and a sponge scrubbing surface (26) and further wherein the device is configured to have an axis thereof pass through the scrubbing member (see fig 1).

One of ordinary skill would deem it obvious to modify the size or width of the scrubbing surface (26) of Enoch so as to present a larger cleaning surface area to the work. The patent to Enoch discloses the invention substantially as claimed with the exception of (1) the vibration buffer and (2) the scrubbing surface comprising a non-woven fabric.

Any device which uses a motor would have some degree of undesired vibration to the user's hands (if mounted in a portable housing/handle). Each of Hart (30,32,38 and column 3, lines 16-25 and JP '786 (3) include means for isolating or reducing vibrations produced by a motor. One of ordinary skill would deem it obvious to have provided such a means to Enoch for the purpose of reducing vibrations to the user's hand. The patent to Palaikis discloses a cleaning material/pad which may be any number of different materials including sponge as well as non-woven fabrics (column 7, lines 21-67) and which materials are disclosed as being used for domestic cleaning. It would have been obvious to one of ordinary skill to have modified the scrubbing member (26) of Enoch as suggested by Palaikis in that it teaches that the ordinary artisan has recognized that sponges and non-woven fabrics may be interchanged.

4. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Enoch (USP 5,881,418) in view of Ferguson et al (USP 3,272,023). The patent to Enoch

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discloses a hand-held scrubbing device comprising a waterproof (see above) casing (10) and an interior area comprising a motor (12), battery (14), dispensing chamber (28), orifice (30), dispensing activator (32) at least indirectly coupled to a dispensing mechanism (69,70), a scrubbing surface (26) and a motor activator (20). See paragraph #3 above for a discussion of the relative width of the scrubbing surface and the casing. The patent to Enoch discloses the invention substantially as claimed with the exception of the particular motor activator. The patent to Ferguson discloses a hand-operated motor (18) driven device as well as a motor activator (23) in the form of a pushbutton switch wherein the switch is opened upon removal of digital pressure therefrom (column 3, lines 60-75). It would have been obvious to one of ordinary skill to have substituted any known motor switch known in the art for the one of Enoch as they are art-recognized equivalents and in particular as a safety feature so the motor did not run when unintended.

5. Claims 12,18,20-22 and 26-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Enoch (USP 5,881,418) in view of Palaikis (USP 5,507,968). The patent to Enoch discloses a hand-held scrubbing device comprising a waterproof casing (10) with an interior area including a motor (12), battery (14), dispensing chamber (28) and an exterior area comprising an orifice (30), dispensing activator (32) and a scrubbing surface (26) in the form of a sponge cleaning member (column 2, lines 40). See paragraph #3 above for a discussion of the relative width of the scrubbing surface and the casing. The patent to Enoch discloses the invention substantially as claimed with the exception of (1) the scrubbing surface including a "controlled release

technology" (claim 12) and (2) the scrubbing surface comprising a non-woven fabric (claim 18). The patent to Palaikis discloses a cleaning material/pad which may be any number of different materials including sponge as well as non-woven fabrics (column 7, lines 21-67) and which cleaning pads include a "controlled release technology" (see the entire patent and especially column 5, lines 41-67). It would have been obvious to one of ordinary skill to have modified the scrubbing member (26) of Enoch as suggested by Palaikis so as to slowly reduce the detergent therein and because Palaikis further teaches that the ordinary artisan has recognized that sponges and non-woven fabrics may be interchanged. The weight or density of the device (claim 26) as well as the noise produced (claim 27) would amount to an obvious optimization of the prior art (to make it lighter as well as quieter). The patent to Enoch, as mentioned above, discloses a cleaning device including a compartment/reservoir (28) for containing any liquid detergent which is suitable for the intended use and thus teaches a broad "kit" encompassed by claim 29. With regard to the specific detergent, the subject matter of claims 30-32 is not asserted to be novel and is merely exemplary of detergents desired to be used in the claimed apparatus.

6. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Enoch (USP 5,881,418) and Palaikis (USP 5,507,968) as applied to claim 18 above, and further in view of Madison (USP 5,423,102). The patent to Enoch discloses the invention substantially as claimed with the exception of a rechargeable battery. The patent to Madison discloses a battery (54) which may be charging with a charging port

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(56). It would have been obvious to one of ordinary skill to have modified the device of Enoch as such so that the batteries need not be replaced.

7. Claims 18 and 20-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madison (USP 5,423,102) in view of Fry et al (USP 4,724,563), Palaikis (USP 5,507,968) and Lanusse (USP 3,943,591). The patent to Madison discloses a hand-held scrubbing device (10) comprising a casing (12), motor (20), battery (54), dispensing chamber (84) including a fluid (F), dispensing orifice (90) joined to a dispensing mechanism and a dispensing activator (38) and a scrubbing surface (eg, 74) joined to the motor. The patent to Madison discloses that the device is used with a cleaning fluid but fails to specifically state that the housing is waterproof. The concept of providing a waterproof or watertight housing is well known in the art and is taught by Fry et al (column 4, lines 25-26). It would have been obvious to one of ordinary skill to have modified the device of Madison as such to minimize the chance of water damaging the contents of the casing. The device of Madison is at least generally wand shaped with the axis of the casing extending in the same directing as the scrubbing surface. For sake of argument, the patent to Lanusse discloses a hand-held motorized cleaning device having a number of configurations, including a wand shaped configuration in figure 3. Such a change in shape would be obvious to one of ordinary skill in the art for the reasons suggested in Lanusse. With regard to the relative width of the scrubbing surface, one of ordinary skill would deem it obvious to modify the size of the cleaning surface to suit the particular intended use or to maximize the surface area of the cleaning surface. With regard to the non-woven fabric, Madison discloses a number of

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cleaning members (see figs 3-5D) which may be selectively attached to the device. The use on non-woven fabrics for the purpose of providing a scrubbing/cleaning surface is well known in the cleaning art (see Palaikis; especially column 7, lines 21-46) and the provision of another and different cleaning surface to the device of Madison would be obvious to one of ordinary skill to suit the particular intended use. With regard to claim 23, the dispensing chamber (84) is removable. The battery (54) of Madison is rechargeable (column 3, lines 59-68) (claim 24) and the device includes a pivoting portion (16) to which the scrubbing surface is attached (claim 25). The subject matter of claims 26-32 was addressed previously and needs not be repeated.

### ***Response to Arguments***

8. Applicant's arguments filed 10 March 2005 have been fully considered but they are not persuasive. Applicant refers to a recitation in Enoch (USP 5,881,418) which states that "the diameter of the sponge is preferably about the same as the diameter of the handle" (column 2, lines 54-56). Although this may be a preferred embodiment, variations in the size of the sponge would be obvious to one having ordinary skill in the art. In this particular case, for cleaning large or smaller hollow ware articles. With regard to claims 30-32, the device of Enoch includes a reservoir which is capable of receiving any fluid cleaning solution and the further recitation of any known cleaning solution does not define over the prior art. The examiner in the present applicant is familiar with the art of motorized cleaning devices and is not at all familiar with detergent compositions (with a mechanical background). How can the prior art references which pertain to the real invention in the present case be expected to disclose even the



detergent composition? The mere absence of a disclosure of such a detergent does not necessarily make it patentable. The teaching in the prior art is that the detergent reservoirs in the motor-powered devices can be used with any known detergent compositions. Applicant is correct in stating that a mention of criticality is not required upon filing of an application; however, the lack thereof in an application wherein the only difference in the claim(s) and the prior art is a difference in shape or size may make it difficult for applicant to subsequently convince the examiner that said difference is a patentable step over the prior art and not merely an obvious variation thereof.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

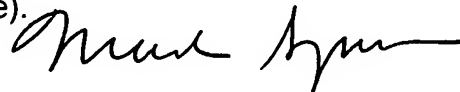
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich  
Primary Examiner  
Art Unit 1744

MS